

STAYED,TYPE I-FOIA

U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:18-cv-01954-EGS

SOWERS v. U.S. DEPARTMENT OF JUSTICE et al
Assigned to: Judge Emmet G. Sullivan
Cause: 05:552 Freedom of Information Act

Date Filed: 08/21/2018
Jury Demand: None
Nature of Suit: 890 Other Statutory
Actions
Jurisdiction: U.S. Government Defendant

Plaintiff**RANDY SOWERS**

represented by **Matthew W. Beato**
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ATTORNEY TO BE NOTICED

V.

Defendant**U.S. DEPARTMENT OF JUSTICE**

represented by **Johnny Hillary Walker , III**
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Defendant**INTERNAL REVENUE SERVICE**

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| Date Filed | # | Docket Text |
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| 08/21/2018 | <u>1</u> | COMPLAINT against INTERNAL REVENUE SERVICE, U.S. DEPARTMENT OF JUSTICE (Filing fee \$ 400 receipt number 0090-5650790) filed by RANDY D SOWERS. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6, # <u>7</u> Exhibit 7, # <u>8</u> Exhibit 8, # <u>9</u> Exhibit 9, # <u>10</u> Exhibit 10, # <u>11</u> Civil Cover Sheet, # <u>12</u> Summons USAO, # <u>13</u> Summons AG, # <u>14</u> Summons DOJ, # <u>15</u> Summons IRS)(Beato, Matthew) (Attachment 11 replaced on 9/19/2018) |

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| | | (zmd). (Entered: 08/21/2018) |
| 08/21/2018 | | Case Assigned to Judge Emmet G. Sullivan. (zmd) (Entered: 08/22/2018) |
| 08/23/2018 | <u>2</u> | STANDING ORDER: The parties are directed to read the attached Standing Order Governing Civil Cases Before Judge Emmet G. Sullivan in its entirety upon receipt. The parties are hereby ORDERED to comply with the directives in the attached Standing Order. Signed by Judge Emmet G. Sullivan on 08/23/18. (Attachment: # <u>1</u> Exhibit 1) (mac) (Entered: 08/23/2018) |
| 08/27/2018 | <u>3</u> | REQUEST FOR SUMMONS TO ISSUE filed by RANDY SOWERS. (Attachments: # <u>1</u> Summons DOJ, # <u>2</u> Summons AG, # <u>3</u> Summons IRS)(Beato, Matthew) (Entered: 08/27/2018) |
| 08/28/2018 | <u>4</u> | SUMMONS (4) Issued Electronically as to INTERNAL REVENUE SERVICE, U.S. DEPARTMENT OF JUSTICE, U.S. Attorney and U.S. Attorney General (Attachments: # <u>1</u> Notice and Consent)(sth) (Entered: 08/28/2018) |
| 08/28/2018 | <u>5</u> | CIVIL COVER SHEET (<i>corrected</i>) by RANDY SOWERS filed by RANDY SOWERS.(Beato, Matthew) (Entered: 08/28/2018) |
| 08/29/2018 | <u>6</u> | RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 8/29/2018. Answer due for ALL FEDERAL DEFENDANTS by 9/28/2018. (Beato, Matthew) (Entered: 08/29/2018) |
| 09/06/2018 | <u>7</u> | NOTICE of Appearance by Johnny Hillary Walker, III on behalf of All Defendants (Walker, Johnny) (Entered: 09/06/2018) |
| 09/19/2018 | <u>8</u> | RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 8/29/2018. (Answer due for ALL FEDERAL DEFENDANTS by 9/28/2018.), RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 8/31/2018., RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. INTERNAL REVENUE SERVICE served on 8/30/2018; U.S. DEPARTMENT OF JUSTICE served on 8/31/2018 (Attachments: # <u>1</u> Declaration of Lisa Dorn)(Beato, Matthew) (Entered: 09/19/2018) |
| 09/25/2018 | <u>9</u> | Unopposed MOTION for Extension of Time to File Answer <i>by Defendant DOJ, Tax Division, and by Defendant IRS</i> by INTERNAL REVENUE SERVICE (Attachments: # <u>1</u> Text of Proposed Order)(Hunsader, Joseph) (Entered: 09/25/2018) |
| 09/25/2018 | | MINUTE ORDER granting <u>9</u> defendants' unopposed motion for extension of time to file answer. The defendants shall therefore answer or otherwise respond to the complaint by no later than October 31, 2018. Signed by Judge Emmet G. Sullivan on 9/25/2018. (lcegs3) (Entered: 09/25/2018) |
| 09/26/2018 | | Set/Reset Deadlines: Defendant Answer Or Otherwise Response To The Complaint due by 10/31/2018. (mac) (Entered: 09/26/2018) |
| 10/31/2018 | <u>10</u> | ANSWER to Complaint by INTERNAL REVENUE SERVICE.(Hunsader, Joseph) (Entered: 10/31/2018) |
| 10/31/2018 | <u>11</u> | ANSWER to Complaint by U.S. DEPARTMENT OF JUSTICE.(Walker, Johnny) (Entered: 10/31/2018) |
| 12/03/2018 | | MINUTE ORDER. Plaintiff brings this action pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552. The parties are directed to meet and confer and propose a joint scheduling order for further proceedings in this case by no later than January 3, 2019. The parties' joint proposed scheduling order shall address the following: (1) The status of plaintiff's FOIA request; (2) The anticipated number of documents responsive to plaintiff's FOIA request; (3) The anticipated date(s) for release of documents responsive to plaintiff's FOIA request; (4) Whether a motion for an Open America stay is likely in this case; (5) Whether a Vaughn index will be required in this case; (6) Whether this case would benefit from referral to a magistrate judge or the District Court Mediation Program for purposes of settlement; and (7) A proposed briefing schedule for dispositive motions, if applicable. If the parties are unable to agree on a |

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| | | joint recommendation, the joint proposed scheduling order shall include each party's individual recommendations. Signed by Judge Emmet G. Sullivan on 12/3/2018. (lcegs3) (Entered: 12/03/2018) |
| 12/04/2018 | | Set/Reset Deadlines: Joint Scheduling Order due by 1/3/2019. (mac) (Entered: 12/04/2018) |
| 12/20/2018 | <u>12</u> | Joint MOTION for Extension of Time to <i>file a Joint Proposed Schedule</i> by INTERNAL REVENUE SERVICE, U.S. DEPARTMENT OF JUSTICE (Attachments: # <u>1</u> Text of Proposed Order)(Walker, Johnny) (Entered: 12/20/2018) |
| 12/20/2018 | | MINUTE ORDER granting <u>12</u> joint motion for an extension of time. The parties shall therefore file its proposed joint scheduling order by no later than January 10, 2019. Signed by Judge Emmet G. Sullivan on 12/20/2018. (lcegs3) (Entered: 12/20/2018) |
| 12/20/2018 | | Set/Reset Deadlines/Hearings: Proposed joint scheduling order due by 1/10/2019. (zcdw) (Entered: 12/26/2018) |
| 01/08/2019 | <u>13</u> | MOTION to Stay <i>in light of lapse of Congressional appropriations</i> by INTERNAL REVENUE SERVICE (Hunsader, Joseph) (Entered: 01/08/2019) |
| 01/09/2019 | | MINUTE ORDER granting <u>13</u> motion to stay in light of lapse of appropriations. Defendants are directed to notify the Court when appropriations are restored or if a continuing resolution is enacted. Signed by Judge Emmet G. Sullivan on 1/9/2019. (lcegs3) (Entered: 01/09/2019) |
| 01/30/2019 | <u>14</u> | NOTICE of <i>restoration of Congressional appropriations</i> by INTERNAL REVENUE SERVICE (Hunsader, Joseph) (Entered: 01/30/2019) |
| 02/04/2019 | | MINUTE ORDER. In view of <u>14</u> Notice of Restoration of Congressional Appropriations, the parties are directed to file a joint status report by no later than February 14, 2019, proposing a schedule for further proceedings. Signed by Judge Emmet G. Sullivan on 2/4/2019. (lcegs3) (Entered: 02/04/2019) |
| 02/05/2019 | | Set/Reset Deadlines: Joint Status Report due by 2/14/2019. (mac) (Entered: 02/05/2019) |
| 02/13/2019 | <u>15</u> | MOTION for Summary Judgment <i>based upon prior settlement agreement setting forth two controlling releases</i> by INTERNAL REVENUE SERVICE (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Statement of Facts, # <u>3</u> Affidavit of Joseph Hunsader, # <u>4</u> Exhibit re: Hunsader affidavit, # <u>5</u> Text of Proposed Order)(Hunsader, Joseph) (Entered: 02/13/2019) |
| 02/14/2019 | <u>16</u> | Joint STATUS REPORT by U.S. DEPARTMENT OF JUSTICE. (Attachments: # <u>1</u> Text of Proposed Order)(Walker, Johnny) (Entered: 02/14/2019) |
| 02/14/2019 | | MINUTE ORDER. In view of the <u>16</u> Joint Status Report, the parties are directed to file a joint status report by no later than June 12, 2019, updating the Court on the status of Defendant Department of Justice's responses to Plaintiff's FOIA requests and proposing a schedule for further proceedings. In view of the <u>15</u> Defendant Internal Revenue Service's Motion for Summary Judgment Based Upon Prior Settlement Agreement Setting Forth Two Controlling Releases, the parties shall adhere to the following briefing schedule: (1) Plaintiff shall file his Opposition by no later than March 12, 2019, and (2) Defendant IRS shall file its Reply by no later than March 27, 2019. The Court declines to adopt Plaintiff's proposal for a summary judgment briefing schedule for the FOIA merits substantially for the reasons set forth in Defendant IRS' proposal. See Joint Status Report, ECF No. 16 at 4. Signed by Judge Emmet G. Sullivan on 2/14/2019. (lcegs3) (Entered: 02/14/2019) |
| 02/15/2019 | | Set/Reset Deadlines: Joint Status Report due by 6/12/2019. Plaintiff Opposition due by 3/12/2019. Defendant IRS Reply due by 3/27/2019. (mac) (Entered: 02/15/2019) |
| 03/11/2019 | <u>17</u> | Consent MOTION for Extension of Time to File Response/Reply as to <u>15</u> MOTION for Summary Judgment <i>based upon prior settlement agreement setting forth two controlling releases</i> by RANDY SOWERS (Attachments: # <u>1</u> Text of Proposed Order)(Beato, Matthew) (Entered: 03/11/2019) |

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| 03/12/2019 | | MINUTE ORDER granting <u>17</u> Plaintiff's Consent Motion for Extension of Time to File Response/Reply as to <u>15</u> Defendant's Motion for Summary Judgment. The parties shall adhere to the following modified schedule: (1) Plaintiff shall file his Opposition to the Motion for Summary Judgment by no later than April 2, 2019, and (2) Defendant IRS shall file its Reply by no later than April 17, 2019. Signed by Judge Emmet G. Sullivan on 3/12/2019. (lcegs3) (Entered: 03/12/2019) |
| 03/13/2019 | | Set/Reset Deadlines: Plaintiff Opposition To Motion For Summary Judgment due by 4/2/2019. Defendant IRS Reply due by 4/17/2019. (mac) (Entered: 03/13/2019) |
| 03/13/2019 | | MINUTE ORDER. On March 13, 2019, Chambers received a voicemail message from government counsel stating that (1) Plaintiff's counsel was on the call and (2) government counsel seeks to discuss the briefing schedule. The parties are advised that to the extent they seek an extension of time they may do so by filing a motion on the public docket. See Standing Order, ECF No. 2 at 2, § 3(b) ("Parties are to communicate with the Court in writing by motion, opposition, and reply; not by letter or telephone call. This includes, but is not limited to, inquiries regarding the status or scheduling of any pending matter, or inquiries regarding the clarification of Court Orders."). Signed by Judge Emmet G. Sullivan on 3/13/2019. (lcegs3) (Entered: 03/13/2019) |
| 03/26/2019 | <u>18</u> | Consent MOTION for Extension of Time to File Response/Reply as to <u>15</u> MOTION for Summary Judgment <i>based upon prior settlement agreement setting forth two controlling releases</i> by RANDY SOWERS (Attachments: # <u>1</u> Text of Proposed Order)(Beato, Matthew) (Entered: 03/26/2019) |
| 03/27/2019 | | MINUTE ORDER. Currently pending before the Court are <u>15</u> Defendant Internal Revenue Service ("IRS")'s Motion for Summary Judgment Based Upon Prior Settlement Agreement Setting Forth Two Controlling Releases and <u>18</u> Plaintiff's Consent Motion for Extension of Time to File Response/Reply as to Defendant IRS' Motion for Summary Judgment. The Court has broad authority to control the disposition of the cases on its docket. E.g., <i>Clinton v. Jones</i> , 520 U.S. 681, 706 (1997); <i>Landis v. N. Am. Co.</i> , 299 U.S. 248, 254–55 (1936). In light of the parties' representations that their settlement negotiations may resolve this action against the IRS, see Pl.'s Mot., ECF No. 18 at 1, the Court HEREBY STAYS further briefing on Defendant IRS' motion for summary judgment. See, e.g., <i>Furniture Brands Int'l Inc. v. U.S. Int'l Trade Comm'n</i> , No. 11–202, 2011 WL 10959877, at *1 (D.D.C. Apr. 8, 2011) ("[S]taying further briefing of the plaintiff's summary judgment motion will allow the parties to avoid the unnecessary expense, the undue burden, and the expenditure of time to brief a motion that the Court may not decide."). It is FURTHER ORDERED that Plaintiff's motion for an extension of time is denied as moot. The parties are directed to file a joint status report with a recommendation for further proceedings by no later than May 24, 2019. Signed by Judge Emmet G. Sullivan on 3/27/2019. (lcegs3) (Entered: 03/27/2019) |
| 03/27/2019 | | Set/Reset Deadlines: Joint Status Report due by 5/24/2019. (mac) (Entered: 03/27/2019) |
| 05/29/2019 | <u>19</u> | NOTICE of Settlement <i>against Defendant Internal Revenue Service only</i> by RANDY SOWERS (Beato, Matthew) (Entered: 05/29/2019) |